

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. SA CV09-1355 GW (SS)

Date: November 24, 2009

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Title: Meglodon Financial LLC v. Renada Nadine March

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DOCKET ENTRY: ORDER TO SHOW CAUSE WHY ACTION SHOULD NOT BE REMANDED
TO STATE COURT

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PRESENT:

HONORABLE SUZANNE H. SEGAL, UNITED STATES MAGISTRATE JUDGE

Denise Lazo
Deputy Clerk

None
Court Reporter/Recorder

None
Tape No.

ATTORNEYS PRESENT FOR PLAINTIFF:

ATTORNEYS PRESENT FOR DEFENDANT:

None Present

None Present

PROCEEDINGS: (IN CHAMBERS)

On November 16, 2009, Defendant Renada Nadine March ("Defendant") removed the current action from Orange County Superior Court. The underlying state court action appears to be an unlawful detainer action against Defendant. (Notice of Removal at 2). Plaintiff appears to be a California corporation and Defendant is a resident of California. Thus, there is no basis for removal on diversity grounds.

Furthermore, the case may not be removed based upon federal question jurisdiction. There is no showing that the complaint alleges anything other than state law claims against the Defendant. Although Defendant asserts that the complaint violates her federal constitutional rights, a defendant may not create removal jurisdiction based upon her defenses or counterclaims. See Franchise Tax Board v. Construction Laborers Vacation Trust, 463 U.S. 1; 10, 103 S. Ct. 2841, 2846, 77 L. Ed. 2d 420 (1983) ("For better or worse . . . a defendant may not remove a case to federal court unless the plaintiff's complaint establishes that the case "arises under" federal law.") (emphasis in original), (superseded by statute on other grounds); Caterpillar Inc. v. Williams, 482 U.S. 386, 393, 107 S. Ct. 2425, 2430, 96 L. Ed. 2d 318 (1987) ("[A] case may not be removed to federal court on the basis of a federal defense . . ."). Thus, it appears this action was improperly removed.

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Defendant March is ORDERED TO SHOW CAUSE why this action should not be remanded to state court. Defendant shall file her response to this order to show cause no later than five court days from the date of this Order or by Thursday, December 5, 2009.

IT IS SO ORDERED.

MINUTES FORM 90
CIVIL-GEN

_____:_____
Initials of Deputy Clerk